



**CITY OF
CHULA VISTA**
OFFICE OF THE MAYOR

Kelley
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2009 AUG 20 P 1:11

August 14, 2009

Richard Wright, Chair
California Region Water Quality Control Board
San Diego - Region 9
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: NPDES Permit Application for Renewal of NPDES Waste Discharge Requirements
For Order No. R9-2004 - 0154, NPDES No. CA0001368
Dynergy South, LLC, South Bay Power Plant Discharge to San Diego Bay

Dear Chair Wright and Board Members,

The Chula Vista City Council is unanimous in its support of the July 15, 2009, letter (Attached) to John Robertus and in its expectation that the discharge permit for the South Bay Power Plant (SBPP) not be renewed or extended. The residents of Chula Vista have shouldered the negative environmental and economic impacts of this regional facility for almost five decades. The plant uses an old technology that constrains public access and economic development plans for 135 acres of bayfront property, and inhibits the restoration and protection of adjacent habitat. The City requests that the Agency reconsider its position and act promptly on neither renewing nor extending this permit.

We are aware that public agencies are facing limited resources, including our own. However, this is a once-in-five-years process that we all had the obligation to plan for. The SBPP is one of the two largest facilities in the region and according to the State Water Resources Board, the most recent study indicates that SBPP uses up to 600,000,000 gallons of bay water per day, kills approximately 390,000 fish through impingement and 2.4 billion larvae through entrainment annually. The RWQCB general statement says, "The primary duty of the Regional Board is to protect the quality of the waters within the Region for all beneficial uses." We ask the RWQCB to make the process for denial of this permit a priority. Failure to process the permit within the five year permit cycle would inappropriately abdicate local authority for one of the largest water bodies and significant natural resources in the region.

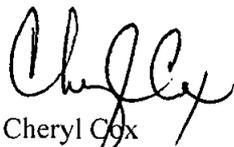
Five years ago, as a responsible partner Duke Energy included the City in the process at the very early stages of permit application development. As stated in our letter to Mr. Robertus, the City did not intervene in the RWQCB process and supported Duke and the Port in minimizing impacts and costs to SBPP operation by phasing in minimal standards. That collaboration was based on the founding principle that SBPP would not operate beyond the current lease term, would be decommissioned by February 2010, and would therefore not need or seek an extended permit from the RWQCB. Dynergy's current permit request represents a failure to meet that commitment.

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Richard Wright, Chair

The bay and surrounding habitat will not begin to fully restore itself from 50 years of this facility's impacts until the plant ceases drawing and discharging exceptionally large volumes of water through this closed water body. The community will not realize the financial means to restore and preserve that habitat, provide public access and the economic opportunities the bayfront represents until the SBPP is decommissioned and dismantled, and the adjacent marine habitat has the resources and time to be restored.

Please help us convey in the strongest manner to the SBPP operator and the other state regulatory agencies that 1950s technology and discharge practices of the past century do not meet this region's water quality standards for this unique watershed today. We ask that you provide an open, transparent and inclusive opportunity for South Bay residents to hear from all parties and review the data by conducting these meetings in Chula Vista. Thank you for your consideration.

Respectfully,



Cheryl Cox
Mayor



Rudy Ramirez
Deputy Mayor



Steve Castaneda
Councilmember



Pamela Bensoussan
Councilmember

Attached: Letter to John H. Robertus

cc: David King, Vice Chair
Eric Anderson, Boardmember
Wayne Rayfield, Boardmember
Gary Thompson, Boardmember
Jim Sandoval, City Manager, Chula Vista

John Robertus, Executive Officer
George Loveland, Boardmember
Grant Destache, Board member
Marc Luker, Boardmember

BOB FILNER
51ST DISTRICT, CALIFORNIA

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CHAIRMAN

TRANSPORTATION AND INFRASTRUCTURE
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AVIATION

HIGHWAY AND TRANSIT

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July 15, 2009

John H. Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, # 100
San Diego, CA 92123

2009 JUL 16 P 2:00

SAN DIEGO REGIONAL
WATER QUALITY CONTROL BOARD

Dear John:

We are writing on a matter of significant importance to residents in the South County. As the members of the elected delegation representing South County communities, we are writing to express our concerns and opposition to the proposed five-year extension of the South Bay Power Plant (SBPP) discharge permit into the San Diego Bay.

When the San Diego Regional Water Quality Control Board (Board) renewed the water discharge permit in 2004, we understood that this would be the last time it would grant a renewal. Therefore, we did not object to the permit application.

In 2004, the Board granted the operators a waste discharge permit, which included very lenient conditions that allowed the power plant to continue to operate. It did not require mitigation of known impacts, it did not require Best Available Technology for cooling, and it even allowed the operators three years to come into compliance with the copper standards. With the latest application to renew the water discharge permit, the South County faces five more years of degradation to our Bay, negative impacts to the environmental health of our communities; and continued restrictions to economic development on the bayfront.

The Board's regulations require that permitted water discharge complies with the law and that beneficial uses of San Diego Bay not be unreasonably affected. In the 2004 permit fact sheet, discharge from SBPP degraded the bay's beneficial uses, its intake and discharge structures failed to reflect best technology available, and mitigation for the damage deemed necessary.

7-15-09

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Since 2004, there have been several legislative and legal decisions made that have implications to any future operation of the power plant's cooling system. In considering the 2009 permit renewal, it should be noted that the operator has yet to address these issues, and has not included proposals in their 2009 application to eliminate the water cooling impacts to San Diego Bay such as changes to include best technology, or commitment to a date to cease operation of the power plant.

While considering any economic impacts of granting this permit, please note that the presence of the power plant has undermined decades of effort to redevelop the Chula Vista Bayfront with quality development. The original agreement tied the purchase of SBPP to a ten year lease term and the repayment of bonds for purchase of the SBPP.

It was widely understood that the ten year timeframe would be sufficient enough for the Otay Mesa Generating Station located in Otay Mesa, San Diego to be permitted and constructed. The bonds are paid and the new plant should be on-line during the fall of this year.

The lease for the power plant site is set to expire in November 2009 with the discharge permit set to expire the same month. We urge the San Diego Regional Water Quality Control Board to reject this permit application for another five-year renewal.

Thank you for your attention to this matter.

Sincerely,



Bob Filner
U.S. Congressman, 51st District



Denise Moreno Ducheny
State Senator, 40th District

John H. Robertus
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Marty Block
State Assemblymember 78th District



Mary Salas
State Assemblymember, 79th District



Greg Cox
San Diego County Supervisor, District 1



Steve Castaneda
Chula Vista City Councilmember



Pamela Bensoussan
Chula Vista City Councilmember



Ben Hueso
San Diego City Councilmember, District 8

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